

Title 24-A: MAINE INSURANCE CODE
Chapter 37: CONSUMER CREDIT INSURANCE
HEADING: PL 2001, c. 138, §3 (rpr)

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Maine Revised Statutes
Title 24-A: MAINE INSURANCE CODE
Chapter 37: CONSUMER CREDIT INSURANCE
HEADING: PL 2001, c. 138, §3 (rpr)

§2851. SCOPE OF PROVISIONS

All life insurance and all health insurance in connection with loans or other credit transactions, credit property insurance, credit involuntary unemployment insurance and other consumer credit insurance specifically authorized by the superintendent in rules adopted pursuant to section 2865 are subject to this chapter, except the following: [2001, c. 471, Pt. D, §25 (AMD) .]

1. Long-term loan. Insurance in connection with a loan or other credit transaction of more than 15 years' duration;

[1999, c. 256, Pt. H, §1 (NEW) .]

2. Isolated transactions. Insurance issued in an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor;

[2001, c. 138, §4 (AMD) .]

3. Real estate loan. Insurance in connection with real estate loans when the charge, if any, to the debtor is periodic and not financed;

[2001, c. 138, §4 (AMD) .]

4. Casualty insurance. Insurance issued pursuant to section 707, subsection 1, paragraph I against loss or damage resulting from failure of debtors to pay their obligations to the insured; or

[2001, c. 138, §4 (NEW) .]

5. Debt cancellation agreements. Debt cancellation agreements entered into between financial institutions or credit unions and their debtors.

[2001, c. 138, §4 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1975, c. 288, §4 (AMD). 1981, c. 175, §3 (RPR). 1999, c. 256, §H1 (RPR). 2001, c. 138, §4 (AMD). 2001, c. 471, §D25 (AMD).

§2851-A. SHORT TITLE

This chapter may be known and cited as the "Consumer Credit Insurance Act." [2001, c. 138, §5 (NEW) .]

SECTION HISTORY

2001, c. 138, §5 (NEW).

§2852. PURPOSE; CONSTRUCTION

The purpose of this chapter is to promote the public welfare by regulating consumer credit insurance. Nothing in this chapter is intended to prohibit or discourage reasonable competition. This chapter must be liberally construed. [2001, c. 138, §6 (AMD).]

SECTION HISTORY

1969, c. 132, §1 (NEW). 2001, c. 138, §6 (AMD).

§2853. DEFINITIONS

For the purpose of this chapter: [1969, c. 132, §1 (NEW).]

1. "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

[1969, c. 132, §1 (NEW) .]

2. "Credit health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

[1969, c. 132, §1 (NEW) .]

2-A. "Credit involuntary unemployment insurance" means involuntary unemployment insurance insuring a debtor pursuant to or in connection with a specific loan or other credit transaction.

[2001, c. 138, §7 (NEW) .]

2-B. "Credit property insurance" means property insurance on property that is purchased on credit or pledged as collateral on a loan when the insurance is purchased by or issued to the debtor in connection with that loan or credit transaction.

[2001, c. 138, §7 (NEW) .]

2-C. "Consumer credit insurance" means insurance subject to this chapter under section 2851.

[2001, c. 138, §7 (NEW) .]

3. "Creditor" means the lender of money or vendor or lessor of goods, services or property, rights or privileges for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor or lessor, and an affiliate, associate or subsidiary of any of them, or any director, officer or employee of any of them, or any other person in any way associated with any of them.

[1969, c. 132, §1 (NEW) .]

4. "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction.

[1969, c. 132, §1 (NEW) .]

5. "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 2001, c. 138, §7 (AMD).

§2854. FORMS AVAILABLE

Consumer credit insurance may be issued only in the following forms: [2001, c. 138, §8 (AMD).]

1. Individual life. Individual policies of life insurance issued to debtors on the term plan;

[1969, c. 132, §1 (NEW) .]

2. Individual accident and health. Individual policies of health insurance issued to debtors on a term plan, or disability benefit provisions in individual policies of credit life insurance;

[1969, c. 132, §1 (NEW) .]

3. Group life. Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;

[1969, c. 132, §1 (NEW) .]

4. Group accident and health. Group policies of health insurance issued to creditors on a term plan insuring debtors, or disability benefit provisions in group credit life insurance policies to provide such coverage;

[1969, c. 132, §1 (NEW) .]

4-A. Individual credit property insurance. Individual policies of property insurance on property that is purchased on credit or pledged as collateral on a loan when the insurance is purchased by or issued to the debtor in connection with that loan or credit transaction;

[2001, c. 138, §8 (NEW) .]

4-B. Group credit property insurance. Group policies of property insurance on property that is purchased on credit or pledged as collateral on a loan when the insurance is purchased by or issued to the debtor in connection with that loan or credit transaction;

[2001, c. 138, §8 (NEW) .]

4-C. Individual credit involuntary unemployment insurance. Individual involuntary unemployment policies insuring a debtor pursuant to or in connection with a specific loan or other credit transaction but not including disability insurance policies;

[2001, c. 138, §8 (NEW) .]

4-D. Group credit involuntary unemployment insurance. Group involuntary unemployment policies insuring a debtor pursuant to or in connection with a specific loan or other credit transaction but not including disability insurance policies; or

[2001, c. 138, §8 (NEW) .]

5. Combination. A combination under subsections 1 and 2, or under 3 and 4.

[1969, c. 132, §1 (NEW) .]

The superintendent may by rules adopted pursuant to section 2865 or chapter 40-A designate other permissible types of consumer credit insurance. [2001, c. 138, §8 (NEW).]

SECTION HISTORY

1969, c. 132, §1 (NEW). 2001, c. 138, §8 (AMD).

§2855. AMOUNTS OF INSURANCE

1. Credit life insurance.

A. The amount of credit life insurance shall at no time exceed the unpaid amount financed plus earned interest and an allowance for delinquencies as determined by the superintendent or, in the case of open-end credit, the balance upon which a finance charge may be imposed, plus earned interest and an allowance for delinquencies as determined by the superintendent. [1977, c. 672, §2 (RPR).]

[1977, c. 672, §2 (RPR) .]

2. Agricultural credit commitments. Notwithstanding subsection 1, paragraph A, insurance on agricultural credit transaction commitments not exceeding 2 years in duration may be written up to the amount of the loan commitment, on a nondecreasing or level term plan.

[1969, c. 132, §1 (NEW) .]

3. Educational credit commitments. Notwithstanding subsection 1, paragraph A, insurance on educational credit transaction commitments may be written for the amount of the portion of such commitment that has not been advanced by the creditor.

[1969, c. 132, §1 (NEW) .]

4. Credit health insurance.

A. Coverage limited. The total amount of indemnity payable by credit health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness; and the amount of each periodic indemnity payment shall not exceed the original indebtedness divided by the number of periodic installments. [1969, c. 132, §1 (NEW) .]

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1969, c. 177, §55 (AMD). 1977, c. 672, §2 (AMD).

§2856. TERM OF INSURANCE

1. The term of credit life insurance or credit health insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor; except that where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy.

[1969, c. 132, §1 (NEW) .]

2. Where evidence of insurability is required and such evidence is furnished more than 30 days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurer determines the evidence to be satisfactory, and in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance.

[1969, c. 132, §1 (NEW) .]

3. The term of such insurance shall not extend more than 15 days beyond the original or revised scheduled maturity date of the indebtedness, except when extended without additional cost to the debtor.

[1969, c. 132, §1 (NEW) .]

4. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 2859.

[1969, c. 132, §1 (NEW) .]

5. For credit involuntary unemployment insurance, benefits must start after a waiting period of not longer than 30 days but need not be retroactive to the first day of unemployment and must have a maximum benefit period of at least 6 months.

[2001, c. 138, §9 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 2001, c. 138, §9 (AMD).

§2857. POLICY PROVISIONS; DELIVERY OR DISCLOSURE TO DEBTORS

1. Policy or certificate delivered. All consumer credit insurance must be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance must be delivered to the debtor.

[2001, c. 138, §10 (AMD) .]

2. Content of policy or certificate. Each individual policy or group certificate of consumer credit insurance must, in addition to other requirements of law, set forth the name and home office address of the insurer, the name or names of the debtor, or, in the case of a certificate under a group policy, the identity by name or otherwise of the debtor; the premium or amount of payment, if a separate identifiable charge is paid by the debtor separately for consumer credit insurance; a description of the coverage, including the amount and term of the coverage, and any exceptions, limitations and restrictions, including conditions under which the policy may be terminated, which must be highlighted in bold print; and must state that the benefit is paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any excess is payable to a beneficiary, other than the creditor, named by the debtor or to the debtor's estate. During the 30 days immediately following the commencement date, the debtor may cancel the insurance and request in writing a full refund of premium for any reason.

[2001, c. 138, §10 (AMD) .]

3. When delivered. The individual policy or group certificate of insurance must be delivered to the insured debtor at the time the indebtedness is incurred, except as otherwise provided.

[2001, c. 138, §10 (AMD) .]

4. Notice of proposed insurance. If the individual policy or group certificate of insurance is not delivered to the debtor at the time indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the premium or amount of payment by the debtor, if a separate identifiable charge is made separately for consumer credit insurance, the amount, term and a brief description of the coverage provided, must be delivered to the debtor at the time such indebtedness is incurred. Failure to comply with the foregoing requirement precludes the use of such application as evidence in any action brought against the insured. The copy of the application for, or notice of proposed insurance, must refer exclusively to insurance coverage, and must be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless the information required by this subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and within 30 days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. The application or notice of proposed insurance must state that upon acceptance by the insurer the insurance becomes effective as provided in section 2856.

[2001, c. 138, §10 (AMD) .]

5. Risk not accepted. If the named insurer does not accept the risk, the debtor must receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and if the amount of premium is less than that set forth in the notice of proposed insurance, an appropriate refund must be made.

[2001, c. 138, §10 (AMD) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1995, c. 238, §1 (AMD). 2001, c. 138, §10 (AMD).

§2858. FILING, APPROVAL AND WITHDRAWAL OF FORMS, RATES; APPEALS

1. Forms filed. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State and the schedules of premium rates pertaining thereto shall be filed with the superintendent.

[1973, c. 585, §12 (AMD) .]

2. Approval of forms and rates. The superintendent shall, within 30 days after the filing of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form, if the benefits provided therein are not reasonable in relation to the premium charge or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of the insurance laws or of any regulation promulgated thereunder. In determining whether to disapprove any such form or premium rates, the superintendent shall give due consideration to past and prospective loss experience and mortality or morbidity rates, based on an appropriate mortality or morbidity table, and claim adjustment expenses, general administrative expenses, including handling cost for return premiums, commissions to agents, cost and compensation to the creditor, branch and field expenses and other acquisition costs, federal, state and local taxes, profit to the insurer, reasonable underwriting judgment, and any and all other factors and trends demonstrated to be relevant. The insurer may support these factors by statistical information, experience, actuarial computations and estimates certified by an executive officer of the insurer, and the superintendent shall give due consideration to such supporting data.

[1973, c. 585, §12 (AMD) .]

3. Notice of disapproval; waiting period. If the superintendent notifies the insurer that the form or rates are disapproved, it is unlawful thereafter for such insurer to issue or use such form or rates. In such notice, the superintendent shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, or any application, endorsement or rider or rate shall be issued or used until the expiration of 30 days after it has been so filed, unless the superintendent shall give his prior written approval thereto.

[1973, c. 585, §12 (AMD) .]

4. Approval withdrawn. The superintendent may, at any time after a hearing held not less than 20 days after written notice to the insurer, withdraw his approval of any such form or rate on any ground set forth in subsection 2. The written notice of such hearing shall state the reason for the proposed withdrawal. The insurer shall not use a form or rate after withdrawal of approval thereof.

[1973, c. 585, §12 (AMD) .]

5. Group certificate filing. If a group policy of consumer credit insurance has been delivered in this State before September 16, 1961, or has been or is delivered in another state before or after such date, the insurer shall file only the group certificate and notice of proposed insurance delivered or issued for delivery in this State as specified in section 2857, subsections 2 and 4, and such forms must be approved by the superintendent, if they conform with the requirements specified in such subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the superintendent.

[2001, c. 138, §11 (AMD) .]

All hearings held under this section shall be conducted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. [1977, c. 694, §423 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1973, c. 585, §12 (AMD). 1977, c. 694, §423 (AMD). 2001, c. 138, §11 (AMD).

§2859. PREMIUM RATES; REFUNDS; ACCOUNTS CREDITED WHEN INSURANCE NOT ISSUED

1. Rates filed; life and health. Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the superintendent; however, no upward revision in insurance charges to debtors may be made in connection with closed-end credit that would apply to debtors whose credit insurance is already in force. In the case of open-end credit, the debtor must be given a 31-day notice prior to an upward revision unless a waiver of that notice is obtained from the superintendent, in which case the notice of the upward revision must be given at the next regular billing cycle. An insurer may not issue any credit life insurance policy or credit health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the superintendent.

[2001, c. 138, §12 (AMD) .]

1-A. Rates filed; property and casualty. All rates charged in connection with credit property insurance or credit involuntary unemployment insurance must be filed in accordance with section 2304-A. An insurer may not issue any credit property insurance or credit involuntary unemployment insurance policy for which the premium rate exceeds those rates then on file with the superintendent.

[2001, c. 138, §12 (NEW) .]

1-B. Rating standards. The superintendent may by rules adopted pursuant to section 2865 or chapter 40-A establish specific rating standards for particular types of consumer credit insurance.

[2001, c. 138, §12 (NEW) .]

2. Refund. Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance must be paid or credited promptly to the debtor. The superintendent shall prescribe a minimum refund and no refund that would be less than such minimum need be made. The formula to be used in computing such refund must be filed with and approved by the superintendent.

[2001, c. 138, §12 (AMD) .]

3. Accounts credited where insurance not issued. If a creditor requires a debtor to make any payment for consumer credit insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

[2001, c. 138, §12 (AMD) .]

4. Termination. Any policy for consumer credit insurance issued subsequent to the enactment of this section must contain a provision that the insurance provided for may be terminated under only the following conditions:

A. The date the indebtedness is discharged, renewed or refinanced; [1977, c. 672, §4 (NEW) .]

B. Upon written request of a debtor; [1977, c. 672, §4 (NEW) .]

C. When a debtor is insured under an individual or group policy, nonpayment by such a debtor of any required premium over 31 days past due, provided that at least 10 days prior to termination the debtor has been given a notice of the right to cure in substantially the same form required by Title 9-A, section 5-110, subsection 3; [1993, c. 149, §1 (AMD) .]

D. In the case where debtors are insured under group policies, the group policy may be terminated after 31 days prior notice to the debtor from the creditor:

(1) In a noncontributory policy, at the option of the creditor;

(2) At the time the insurance risk is transferred to a succeeding insurance carrier; or

(3) If the group policyholder fails to pay the premium; [2001, c. 138, §12 (AMD) .]

E. In the case where credit is extended on open-ended basis:

(1) At attainment by the debtor of an age determined in advance by the contract of insurance; or

(2) If the creditor elects to terminate all insurance on credit extended on an open-ended basis;

[2001, c. 138, §12 (AMD) .]

F. If credit is extended on a closed-end basis, coverage for an individual insured under the policy may be terminated upon expiration of the term of the loan or term for which a charge was paid; or [1993, c. 149, §2 (AMD) .]

G. When consumer credit insurance is paid for by the debtor in a single premium at the inception of the debt, if the debt is placed in charged-off status by the creditor because the debt is uncollectible, the insurance coverage may be terminated by the creditor and any refund of premium must be applied against any outstanding indebtedness. The creditor shall give notice of the termination of insurance coverage to the debtor at the debtor's last known address. [2001, c. 138, §12 (AMD).]

[2001, c. 138, §12 (AMD) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1973, c. 585, §12 (AMD). 1977, c. 672, §§3,4 (AMD). 1979, c. 127, §§156B-156D (AMD). 1993, c. 149, §§1-3 (AMD). 2001, c. 138, §12 (AMD).

§2860. AUTHORIZED INSURER, AGENT REQUIRED

All policies of consumer credit insurance may be delivered or issued for delivery in this State only by an insurer authorized to transact such insurance therein, and may be issued only through holders of licenses or authorizations issued by the superintendent. [2001, c. 138, §13 (AMD).]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1973, c. 585, §12 (AMD). 2001, c. 138, §13 (AMD).

§2860-A. COMMISSIONS

A commission not exceeding 5% of credit life and health insurance premiums, as set forth by rules adopted by the superintendent, may be paid to any creditor who is a licensed credit insurance agent. This section does not prohibit fees paid to a lender for handling or processing credit life or health insurance not exceeding 10% of prima facie premiums as set forth by rules adopted by the superintendent. [1993, c. 645, Pt. B, §6 (AMD).]

SECTION HISTORY

1993, c. 208, §3 (NEW). 1993, c. 645, §B6 (AMD).

§2861. PREMIUM NOT DEEMED INTEREST; AMOUNT, COLLECTION

1. Except as provided in Title 9-A, section 4-104, the premium of cost of such insurance when issued through any creditor shall not be deemed interest, or charges, or consideration, or an amount in excess of permitted charges in connection with the loan or other credit transaction, and any benefit or return or other gain or advantage to the creditor arising out of the sale or provision of such insurance shall not be deemed a violation of any other law, general or special, of the State of Maine.

[1973, c. 762, §11 (AMD) .]

2. The amount charged to a debtor for any consumer credit insurance may not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

[2001, c. 138, §14 (AMD) .]

3. The insurance premium or other identifiable charge for such insurance may be collected from the insured or included in the finance charge or principal of any loan or other credit transaction at the time such transaction is completed.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1973, c. 762, §11 (AMD). 2001, c. 138, §14 (AMD).

§2862. CLAIMS

1. Claims reported. All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

[1969, c. 132, §1 (NEW) .]

2. Claims paid. All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.

[1969, c. 132, §1 (NEW) .]

3. Creditor may not adjust claims. No plan or arrangement shall be used whereby any person other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; except that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW).

§2863. EXISTING INSURANCE; CHOICE OF INSURER

When credit life insurance or credit health insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact such insurance within this State. [1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW).

§2864. ENFORCEMENT

Whenever the superintendent finds that there has been a violation of this chapter or any regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the superintendent, such hearing to conform to the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, he shall set forth the details of his findings

together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the superintendent on the date specified unless sooner withdrawn by the superintendent. [1977, c. 694, §424 (AMD).]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1973, c. 585, §12 (AMD). 1977, c. 694, §424 (AMD).

§2865. RULEMAKING

The superintendent may adopt rules establishing specific requirements and procedures for consumer credit insurance policies, certificates of coverage and rates, consistent with the purposes of this chapter. These rules may specify additional types of consumer credit insurance that may be issued on an individual basis or, pursuant to chapter 40-A, on a group basis. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter II-A. [2001, c. 138, §15 (NEW).]

SECTION HISTORY

2001, c. 138, §15 (NEW).

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